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Attorneys for Defendants and Claimant
BARRY COHEN, CHRIS COHEN (aka CHRISTENE COHEN),
the F/V POINT LOMA and Claimant, F/V POINT LOMA Fishing Company, Inc.

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEL MAR SEAFOODS, INC.,

Plaintiff,

v.

BARRY COHEN, CHRIS COHEN (aka
CHRISTENE COHEN), *in personam* and,
F/V POINT LOMA, Official Number
515298, a 1968 steel-hulled, 126-gross ton,
70.8 foot long fishing vessel, her engines,
tackle, furniture apparel, etc., *in rem*, and
Does 1-10,

Defendants.

No. C-07-2952-WHA

**[PROPOSED] ORDER OF
REFERENCE TO SPECIAL MASTER**

Pursuant to the Court's Order Re Motion For Attorney's Fees and Costs dated June 19,
2008 and the further Order Appointing Special Master Re Attorney's Fees, dated August 19,
2008, the parties to the above captioned action and Thomas J. Klitgaard, Esq. met by telephone
on August 21, 2008 and discussed the appointment of Mr. Klitgaard as special master. No

1 conflicts having been identified, Mr. Klitgaard accepted the assignment and the parties agreed.
 2 The parties and Mr. Klitgaard therefore submit the following Proposed Order of Reference:

3 **[PROPOSED] ORDER OF REFERENCE**

4 Pursuant to Fed. R. Civ. P. 53, the Court appoints Thomas J. Klitgaard, Esq. as the special
 5 master to determine a reasonable amount of attorney's fees and costs to award to Defendants,
 6 including any fees on fees, in accordance with the Judgment and the Court's June 19, 2008 Order
 7 Re Motion for Attorney's Fees and Costs. The special master shall have all the powers set forth in
 8 Fed. R. Civ. P. 53(c) and 54(d)(2)(D).

9 The special master will review the briefs and declarations filed by the parties related to
 10 Defendants' pending Application for Reasonable Attorney's Fees and Costs and hear argument as
 11 needed. There will be no replies unless allowed by the special master and any further submissions
 12 for the special master's use should not be filed with the Court. The special master shall also
 13 determine the extent to which any discovery should be permitted. The special master shall
 14 complete his determination and file a report on the recommended findings and amount by October
 15 2, 2008.

16 If objections are made to the special master's report, the objecting party must file a
 17 declaration submitting to the Court a complete appendix of relevant communications with the
 18 special master.

19 The Court will allocate the fees of the special master in a fair and reasonable manner,
 20 taking into account the reasonableness of the parties' respective positions and the special master's
 21 recommendation in this regard. If the movant must pay, then the special master's compensation
 22 shall be deducted from the attorney's fee award. If the opposing party must pay the special
 23 master, then it shall pay the special master and pay the award. The Court will, however, reserve
 24 final judgment on allocation of the expense of the special master until a final determination of the
 25 fee issue.

26 Costs will be determined in strict compliance with the local rules, and if a review is
 27 sought regarding taxable costs, then the issue will also be referred to Mr. Klitgaard.
 28

1 Mr. Klitgaard has offered to accept \$175.00 per hour (below his normal rate) for this
2 service, and the parties have agreed to pay that amount allocated as per the above.

3 Respectfully submitted this 25th day of August, 2008,
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5

6 /s/ James P. Walsh

James P. Walsh

Gwen Fanger

DAVIS WRIGHT TREMAINE LLP

8 Attorneys for Defendants BARRY COHEN,
9 CHRIS COHEN, F/V POINT LOMA and the
10 F/V POINT LOMA FISHING COMPANY,
11 INC.

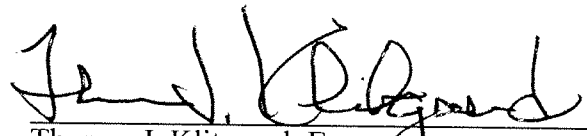
12 /s/ Gregory W. Poulos

Gregory W. Poulos

Max L. Kelley

COX, WOOTTON, GRIFFIN, HANSEN &
14 POULOS

15 Attorneys for Plaintiff, DEL MAR
16 SEAFOODS, INC.

17 

18 Thomas J. Klitgaard, Esq.

19 DILLINGHAM & MURPHY LLP

20 Appointed as Special Master
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